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RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

Written statement submitted by Human Rights Watch, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[9 March 1998]

GE.98-11012 (E)

1. The human rights situation in the former Yugoslavia, and particularly the plight of ethnic minorities, requires the international community's continued intense involvement. Human Rights Watch calls for renewal of the full mandate of the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia. Our concerns and recommendations with respect to specific countries are summarized below.

Bosnia and Herzegovina

2. The overall human rights situation in Bosnia and Herzegovina, despite some improvements, remains poor, primarily because persons believed responsible for war crimes continue to exert control in the region and obstruct the Dayton Peace Agreement. Local authorities' cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) has been limited, especially in the Republika Srpska. Since July 1997, there has been a change in the policy of the Stabilization Force (SFOR) regarding arrests, with international troops conducting arrest actions against five indictees, as of this writing. Moreover, after intense pressure by the international community, Croatia handed over 10 indictees last October. Nevertheless, there are still 53 known indictees at large, the majority of them living in the Republika Srpska, where they continue to exert considerable power. Human Rights Watch is particularly concerned about reports that leading NATO Governments may have agreed not to arrest Radovan Karadzic if he stays out of the political limelight.

3. Ethnically motivated violence and expulsions have remained common throughout the past year. The most egregious cases took place in Mostar, where around 30 families were expelled over the course of a couple of days in February 1997, and Jajce, where over 400 Bosniac returnees were expelled by Croat mobs in August 1997. In other places, including Drvar and Gajevi, arson attacks have been used to block returns. Ethnically motivated murders have taken place throughout the past year in Mostar, Jajce, Travnik, Visoko and Sarajevo. The local police have been involved in, or at least failed to prevent or react properly to many of these incidents. Few cases are ever brought to trial, and when they are, sentences are very short. The rule of law simply does not exist in many communities.

4. Although some refugees and displaced persons have returned, the vast majority remain displaced. So far, only 250,000 out of more than 2 million displaced persons have been able to return to their homes. Only a small percentage of them were individuals returning to areas where their ethnic group was in the minority (the so-called "minority returns"). Moreover, since Dayton, another 80,000 individuals have been displaced as a result of transfers of territory. Housing and property legislation that violates the Dayton Agreement and human rights standards is a significant obstacle to return.

5. Freedom of movement has improved somewhat over the last year. Nonetheless, persons travelling through an area where they are not the ethnic majority are often harassed, and the Republika Srpksa police have continued to require visas and fees for non-Republika Srpksa residents. Human Rights Watch welcomes the recent agreement on common license plates, which will facilitate

freedom of movement throughout the country, but would like to see further revisions in the checkpoint policy. So-called "traffic checks" are in fact often conducted to determine the ethnicity of the driver.

6. Human Rights Watch calls on the Commission to renew the mandate of the Special Rapporteur to address the serious human rights problems persisting in Bosnia. Specifically, we urge the Commission and Special Rapporteur to press the authorities in the former Yugoslavia, in particular the Republika Srpska and the Federal Republic of Yugoslavia, to hand over all persons indicted by the ICTY. The Commission should call on the local authorities to resolve all outstanding cases of ethnically motivated violence. Human Rights Watch commends the efforts of the field offices of the High Commissioner for Human Rights to monitor local trials on war crimes charges and trials that appear to be ethnically motivated. In a similar vein, the Commission should recommend that the Special Rapporteur and OHCHR field offices monitor official responses to ethnically motivated violence and publicize all cases in which the authorities fail to allow expelled persons to return or to prosecute those believed responsible for expulsions and ethnic violence.

Croatia

7. International pressure has induced modest improvements in Croatia's human right record over the past year. The Government's desire for financial aid and political recognition led it to take some steps toward the political and social reintegration of Eastern Slavonia, Baranja and Western Sirmium (Eastern Slavonia). However, a recent resurgence in nationalist rhetoric within mainstream political parties and the continuous outflow of Serbs from Eastern Slavonia to Serbia and Western Europe point to backsliding.

8. Serbs continue to face discrimination and ill-treatment by representatives of the State. In May 1997, around 100 Serb refugees were expelled after an attempt to return to homes near Sisal, and President Tudjman announced that it was "unreasonable" to expect that all of the 200,000 exiled Serbs would be able to return. Citing "grave concerns" about conditions impeding refugee returns, the Security Council extended the mandate of the United Nations Transitional Administration for Eastern Slavonia (UNTAES) until 15 January 1998, six months beyond the July 1997 deadline.

9. In the first quarter of 1998, international observers report an increasing number of incidents of harassment, threats, and evictions of Serbs in Eastern Slavonia. Several nationalist demonstrations have been held in the region since the handover with the apparent intention of intimidating local Serbs. At one rally held by the Croatian Party of Rights (HSP) outside of Vukovar, approximately 900 demonstrators sang nationalist songs and gave fascist salutes. On 22 January, a tenancy law effective only in Eastern Slavonia was passed to allow pre-war tenants to regain their properties, while other areas of Croatia (such as the Krajina, an area from which Serbs were ethnically cleansed in 1995) remained unaffected. In addition to being de facto discriminatory, this law would have further exacerbated the already serious problems inherent in accomplishing two-way resettlement. After strong protest from the international community, the law was revoked; however, its passage - immediately after the withdrawal of UNTAES forces - sent a clear message of intolerance. Serb leaders have threatened to walk out of the

National Committee on the Establishment of Trust if they do not receive more positive signs from the Government by 15 March. Meanwhile, the Organization for Security and Cooperation in Europe and the Federal Republic of Yugoslavia have recently expressed concern in international forums over the intensifying "silent exodus" of Serbs.

10. Human Rights Watch urges the Commission to call on the Croatian Government to honour the rights of minorities to remain in or return to their homes of origin. The Special Rapporteur for the former Yugoslavia can play a key role in Croatia. The Commission should direct the Special Rapporteur to publicize ethnically motivated misconduct reported by the United Nations police monitors, to monitor the official response, and to publicize cases in which the Croatian Government fails to investigate and prosecute the perpetrators. We also call on the High Commissioner to monitor closely the ongoing developments and to publicize the findings of her field office and the United Nations police monitors on a regular basis.

Federal Republic of Yugoslavia

11. The Federal Republic of Yugoslavia, comprised of Serbia and Montenegro, continues to demonstrate a blatant disrespect for human rights. The military action that began on 28 February 1998 in Kosovo against ethnic Albanians involved violations of humanitarian law, including attacks against civilians and possible summary executions. All citizens critical of Yugoslav President Slobodan Milosevic suffer from human rights violations, regardless of their ethnicity. The independent media in Serbia have come under constant pressure from the State. But minority populations (non-ethnic Serbs and Montenegrins) are especially susceptible to abuse. Ethnic Albanians, Hungarians, Muslims, Turks and Roma are subjected to varying degrees of persecution, ranging from discriminatory legislation to arbitrary arrests, torture, and deaths in detention.

12. The most severe abuse occurs in the south-west region of Kosovo, inhabited by 1.8 million ethnic Albanians, who comprise 90 per cent of the local population. On 28 February, Serb paramilitary forces began a military operation in the Drenica region, apparently aimed at the Kosova Liberation Army based in the area. Heavy artillery and helicopters were used against villages, injuring and killing innocent civilians. Credible evidence suggests that as many as 12 detainees were summarily executed. Throughout the year, Serb authorities used political trials, police violence and torture to repress ethnic Albanians, increasingly resulting in severe civilian injuries and death. Albanian language education is still denied, despite an agreement signed by President Milosevic in 1996 to reopen Albanian-language schools. Peaceful demonstrations by Albanian students have been violently suppressed by the police.

13. In neighbouring Sandzak, with a large Muslim Slav population, there is similar, albeit less intense, discrimination. The wave of State-sanctioned violence that swept through Sandzak during the war in Bosnia has abated, but intimidation, harassment and violence by the police continue.

14. Human Rights Watch urges the Commission to renew the mandate of the Special Rapporteur with respect to the Federal Republic of Yugoslavia and to

call on the Government of the Federal Republic of Yugoslavia to implement the recommendations of the Commission's 1997 resolution, as well as those made by the Special Rapporteur.

The former Yugoslav Republic of Macedonia

15. Despite the ongoing process of legislative reform in the former Yugoslav Republic of Macedonia, human rights violations continue to take place. Police brutality, political interference in the courts and discrimination against the country's ethnic minorities are problems that weaken the stability of the State. Modern legislation and verbal promises from the Government have not been enough to counter the ongoing human rights abuses. Ethnic minorities, especially Albanians, are severely under-represented in State structures and the State media. Incidents like the brutal police intervention against ethnic Albanian demonstrators in Gostivar during the summer of 1997 have gone unpunished, increasing the already palpable inter-ethnic tension. Ethnic Macedonians are also sometimes victims of police abuse and due process violations. While the ethnic minorities are especially susceptible to abuse, the problem in the former Yugoslav Republic of Macedonia stems from the generally low level of democracy, which affects all its citizens.

16. The international community has considered the former Yugoslav Republic of Macedonia a success because it has avoided violent conflict. However, the threat to its territorial stability is not only from the regional conflicts outside its borders, but also from the lack of democracy and rule of law inside its borders. The international community has a strong presence in the country, including a United Nations Preventive Deployment Force (UNPREDEP) and an OSCE mission that monitors internal and external developments. Neither of these organizations has taken a strong position vis-à-vis violations committed by the State, choosing instead to support a Government that is considered a "guarantor of stability".

17. Human Rights Watch is concerned about the recommendation of the Special Rapporteur for the former Yugoslavia that Macedonia be dropped from that mandate. As the Special Rapporteur has herself reported, police conduct, the independence of the judiciary and the rights of minorities remain areas of concern. In light of escalating violence in neighbouring Kosovo and the August 1998 expiration of UNPREDEP's mandate, it is particularly important to maintain the Commission's monitoring of the human rights situation in that country. The UNPREDEP mandate should be extended, including the civilian component, which is needed to keep pressure on the Government.